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Agenda items 5 and 18

ELIMINATION OF RACIAL DISCRIMINATION

PROTECTION OF MINORITIES

Note verbale dated 28 July 1994 addressed to the Chairman of the forty-fifth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities by the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office and Other International Organizations at Geneva

The Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office and Other International Organizations at Geneva presents its compliments to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and has the honour to transmit information submitted by the Federal Republic of Yugoslavia on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and requests the circulation of the above-mentioned document as an official document at the forty-sixth session of the Sub-Commission, under agenda items 5 and 18.

Implementation by the Federal Republic of Yugoslavia of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief

Part one

1. On the basis of the continued personality of the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia undertook by its Constitution of 27 April 1992 to fulfil, in good faith, all its commitments under the universal declarations and international covenants it had subscribed to. In this context, the Federal Republic of Yugoslavia honours, and will continue to do so, the letter and spirit of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

2. Proceeding from the text of the Declaration, the freedoms and rights of man and citizen ensuring the equality of people and citizens of the Federal Republic of Yugoslavia are guaranteed by the Constitution of the Federal Republic of Yugoslavia and the Constitutions of its constituent Republics (Republic of Serbia and Republic of Montenegro) and by appropriate laws. One of the basic constitutional principles contained in all three Constitutions is the principle of the freedom of equality of all citizens. This principle proclaims the equality of all citizens in their rights and duties, regardless of national origin, race, sex, language, religion, political or other belief, education, social origin, property or any other personal quality.

3. In addition, the Constitutions of the Federal Republic of Yugoslavia and its constituent Republics guarantee the equality of all citizens before the law.

4. Citizens are guaranteed the freedom of assembly and other peaceful gathering (including religious assemblies) without prior approval, with prior notification to the competent authority. This is a concession vis-à-vis the previous Constitution, according to which it was necessary to obtain approval from the competent authority.

5. The Constitutions of the Federal Republic of Yugoslavia and its constituent Republics guarantee the freedom of belief, public or private practice of religion and the performance of religious rites. Similarly, no one is obliged to declare his/her religion.

6. It is unconstitutional and punishable to incite and encourage national, racial, religious or any other hatred or intolerance.

7. According to the Constitutions of the Federal Republic of Yugoslavia and its constituent Republics, the Church is separated from the State. Churches are equal and free to conduct religious business and services.

8. International covenants, ratified and published in accordance with the Constitution of the Federal Republic of Yugoslavia and the generally recognized rules and principles of international law are an integral part

of the domestic legal system. As the Declaration was accepted in accordance with the Constitution, it can be directly implemented before courts and administrative organs.

9. The legal system of the Federal Republic of Yugoslavia regulates in a satisfactory manner under criminal law the protection of the freedom of thought, conscience and religion, i.e. freedom to have a religion or whatever belief of one's choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching (art. 1, para. 1, of the Declaration).

10. Article 134 of the Criminal Code of the Federal Republic of Yugoslavia incriminates incitement to national, racial and religious hatred, rift and intolerance. In addition to national and racial equality, the said incrimination is aimed at protecting religious equality as stipulated in article 1, paragraph 1, of the Declaration. The perpetrator of the ensuant criminal offence shall be punished with imprisonment of from one to five years. The criminal offence also has two graver degrees. The first degree consists of the commission of the criminal offence by means of coercion, harassment, endangerment of safety, exposure to ridicule of religious freedoms, damage to other people's property or the desecration of monuments, tombstones or graves - in which case the perpetrator shall be punished with imprisonment from one to eight years. The second degree consists of the commission of the criminal offence by means of the abuse of position or authority (art. 2, para. 1, and art. 4, para. 1, of the Declaration) or of causing unrest, violence or other serious consequences for the common life of peoples and minorities living in the Federal Republic of Yugoslavia - in which case the perpetrator shall be punished with imprisonment of from 1 to 10 years.

11. Furthermore, article 186 of the Criminal Code of the Federal Republic of Yugoslavia, article 60 of the Penal Law of the Republic of Serbia and article 52 of the Penal Law of the Republic of Montenegro incriminate violation of the equality of citizens, i.e. violation of equality (the Penal Law of the Republic of Montenegro). This criminal offence is punishable with imprisonment of from three months to five years under both federal and republican penal law if committed by an official person by means of withholding or restricting, on the basis of differences in, inter alia, religion or religious belief, the rights of citizens provided for by the Constitution, laws or any other regulation or general act or a ratified international covenant or by way of the provision of benefits or facilities on the basis of these differences.

12. The republican penal laws explicitly protect religious rites (art. 240 of the Penal Law of the Republic of Serbia and art. 228 of the Penal Law of the Republic of Montenegro) by stipulating that a person disrupting or preventing the performance of religious rites shall be fined or imprisoned for up to one year.

13. As to article 6, paragraph 1 (h), of the Declaration, the observance of prescribed days of rest, celebration of religious holidays and ceremonies in accordance with the precepts of one's religion or belief is regulated by

republican regulations. Thus, article 2 (a) of the Law on Public Holidays of the Republic of Serbia provides for the right of employees to be absent from work in the course of one year on religious holidays as follows:

(i) Orthodox: on the first day of Christmas (7 January), the second day of Easter and on the first day of one's patron saint's festival;

(ii) Catholics and members of other Christian religious communities: on the first day of Christmas according to the calendar and on the second day of Easter;

(iii) Members of the Islamic community: on the first day of the Ramadan Bayram and on the first day of Kurban Bayram;

(iv) Members of the Jewish community: on the first day of Yom Kippur.

Part two

14. The constitutional and legal provisions and equality in practice have enabled the activities of about 50 registered religious communities in the Republic of Serbia and the Republic of Montenegro. The largest and most numerous religious community is the Serbian Orthodox Church rallying Serbs and Montenegrans. The Islamic community is active among Muslims and ethnic Albanians and the Roman Catholic Church among Croats and Hungarians. Traditional Protestantism is represented by the Slovak Evangelist Church rallying members of the Slovak national minority. According to the 1991 census, undertaken without the participation of ethnic Albanians, the official data on religious belief in the Republic of Serbia are the following:

Orthodox	81.6 per cent
Catholic	6.5 per cent
Islamic	2.9 per cent
Protestant	1.2 per cent
Others	0.1 per cent
Non-believers	2.1 per cent
Unknown	5.6 per cent.

15. The Christian Reform Church is active among Hungarians. Other religious communities belong to new Protestant and modern cults which have a relatively small membership.

16. All religious communities are fully independent and free in the performance of religious rites and their internal organization. They maintain their international links and become members of international church organizations and inter-church associations freely and without any control. Delegates for international church meetings and members of international church organizations are elected by religious communities in accordance with their criteria.

17. Religious communities are very active in publishing all sorts of books. They publish prayers and other religious books, but also university and school textbooks, as well as newspapers for children, young people, the family, and

for the religious and the ordinary reader. The production and distribution of audio and video cassettes have increased significantly as they are used as a modern means of communication with believers. All religious communities, particularly the smaller ones, import various publications from abroad. Religious books are freely sold in bookshops and by other vendors and publishers participate at book fairs and similar manifestations. The publication of religious books is subject to the general rules and regulations applicable to all publishers.

18. All religious communities freely teach religion to children of their believers and to other interested people. Classes are held in church or in other suitable premises. Textbooks and lecturers are provided by religious communities according to their own criteria. Religious schools and the number of students in these schools depend on the organization level of each religious community and lecturers' ability to galvanize the audience. According to the regulations in force, religion cannot be taught in State schools, but possibilities are being explored to organize optional religious classes in State schools for interested children.

19. All religious communities in the Republic of Serbia have their own religious schools. The following are the schools of the Serbian Orthodox Church:

(i) Divinity schools providing secondary education:

1. Divinity School of Sv. Sava, Belgrade, 260 students

2. Divinity School of Sv. Arsenije, Sremski Karlovci, 240 students

3. Divinity School of Sv. Kirilo and Metodije, Prizren, 150 students

4. Divinity School of Sveta Tri Jerarha, Krka Monastery, 133 students

5. Divinity School of Sv. Petar Cetinjski, Cetinje, 72 students

(the two last schools are not in the territory of the Republic of Serbia).

(ii) Colleges and faculties:

1. Divinity College

2. The Faculty of Theology, Belgrade, about 500 full-time and part-time students.

20. This educational system caters for the clerical needs of the Serbian Orthodox Church, which now has several hundred priests across the former Yugoslavia and the world. Most of them have secondary education, but the Church does invest money and efforts to provide college and university education to its priests.

21. The Islamic community has two secondary schools: the Albanian-language madrasa in Pristina and the Serbian-language madrasa in Novi Pazar. The Pristina madrasa has about 250 students and the Novi Pazar madrasa about 100. Graduate students from these schools attend religious colleges and universities in Arab and other Islamic countries and are often granted very generous scholarships.

22. For illustration purposes, the age and education breakdown of priests of the Islamic community in the Republic of Serbia is provided below:

Age		Education	
Up to 30	63	Faculty of Theology	22
31-40	79	Other faculty	16
41-50	105	College	5
51-60	99	Madrasa graduates	141
Over 60	130	Madrasa undergraduates	253
		Hafizes	39

23. The Christian Adventist Church has opened its Faculty of Theology in Belgrade. It is attended by about 100 full-time and part-time students. The Christian Baptist Church has a secondary school and a college in Novi Sad with a small number of students, while the Catholic Church has a school in Subotica.

24. Other religious communities educate their clergy abroad, who return home to perform their duties in local churches upon completion of their studies. All religious communities that have religious schools determine curricula and publish textbooks and other school books freely and independently. Church education authorities select teachers and lecturers according to their own criteria and determine the enrolment policy and quotas according to their needs. All religious schools are separated from the State educational system. Because of the need to preserve the autonomy and specificity of religious education, leaders of religious communities have showed no interest in changing this status. In view of the importance of the Faculty of Theology of the Serbian Orthodox Church and the fact that it has always taught at university level, ways are now being sought to make it part of Belgrade University.

25. All religious communities, in accordance with the number of believers and their needs, build new and maintain existing places of worship. The Serbian Orthodox Church has several hundred churches, monasteries, parochial homes and other institutions both in Yugoslavia and abroad. About 100 new Orthodox churches are currently being constructed in the Republic of Serbia. In former Bosnia and Herzegovina, practically all churches and other property of the Serbian Orthodox Church have been destroyed in Muslim-controlled territories. The same fate befell the property of the Serbian Orthodox Church in the eparchies that remained in the Republic of Croatia.

26. The Islamic community in the Republic of Serbia has a considerable number of religious institutions catering to the needs of its believers. However, new mosques and other religious institutions are being constructed, mostly in communities with a small number of believers, which is the cause of frequent

resentment on the part of other religious communities. Information on religious institutions according to the official documents of the Islamic community is provided below:

Overall number of jemaats	571
Mosques with imams	448
Jemaats without imams	123
Mosques	457
Messjids	129
Mektep schoolrooms	58
Tekkes	19
Turbehs	33
Offices	50
Gassoulhanes	21
Iman residences	7
Buildings leased	233
Cemeteries	817.

27. Other religious communities also build new religious institutions depending on available means.

28. The Republic of Serbia provides 50 per cent of pension, disability and health insurance contributions of priests. It also subsidizes some religious communities. Through the Republican Administration for the Protection of Cultural Monuments, the Republic of Serbia provides considerable financial assistance for the protection of churches and monasteries and other religious institutions.

29. The war in Yugoslavia's neighbourhood has not affected much the activities of religious communities. In general, inter-religious tolerance is satisfactory. In their public statements, leaders of religious communities call on their believers and other citizens to live in peace and help ease inter-ethnic and inter-confessional tensions in everyday life. There have been no cases of organized disruption of religious activities or desecration of religious institutions, but individual incidents can never be ruled out. A few such incidents have occurred (graffiti on church or mosque walls, broken windows, telephone calls to priests and one case of the planting of explosives in the entrance of a Catholic church in a town with a mixed population, which fortunately occurred at a time when the church was closed and when there were no passers-by), but they had no serious consequences and should be viewed in the context of the overall situation in the former Socialist Federal Republic of Yugoslavia and the tragedy of the Serb people and the Serbian Orthodox Church in the Republic of Croatia and in Muslim- and Croatian-controlled territories in former Bosnia and Herzegovina.

Belgrade, July 1994